

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2400 of 2007

ORAL ORDER:

This writ petition is filed seeking Certiorari to call for the records relating to the order made in I.D.No.44 of 2002 (interim) dated 20.11.2006 on the file of the first respondent-Labour Court.

It appears, second respondent raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 seeking a declaration that the action on the part of the management in dismissing him from service by order dated 2.4.2002 is arbitrary, illegal and for consequential benefits.

Whenever the validity of the enquiry conducted by the management is challenged, the Labour Court is supposed to conduct an enquiry into that and record its finding with regard to domestic enquiry conducted by the management. If it is held that the enquiry is invalid, the management and workman would be permitted to lead his evidence. In this case, under the impugned order, the Labour Court has adopted a novel method and held that the parties should lead evidence first and the validity of domestic enquiry would be decided in the final enquiry. It gave its reasons stating that to avoid piecemeal enquiry and multiplicity of litigation, it requires to direct the parties to avail opportunity to adduce evidence without prejudice to the validity or otherwise of the domestic enquiry said to be conducted by the management. This is contrary to the principles laid down by the Apex Court in **Cooper Engineering Ltd. v. P. P. Mundhe**^[1], therefore, the impugned order is liable to be set aside.

In the above judgment, in fact, to avoid multiplicity of litigation and to industrial peace, the apex Court held that the preliminary issue as to validity of domestic enquiry to be decided before other issues are taken up, so that if necessary the parties would be allowed to lead evidence to substantiate

their case. If this is taken up after other issues are decided, it leads to confusion and multiplicity of litigation even as regards procedural matters.

In the result, the writ petition is allowed and the impugned order dated 20.11.2006 is set aside. The Labour Court is directed to decide the validity of domestic enquiry as preliminary issue. If the Labour Court comes to a conclusion that the domestic enquiry is invalid, the management and the workman may be directed to lead evidence. Further it is made clear that there cannot be any piecemeal adjudication and the parties cannot approach this Court as against the findings recorded by the Labour Court with regard to the validity of domestic enquiry. However, after final disposal of the I.D., the parties are at liberty to avail the remedies open to them as available under law. No order as to costs.

C.V.RAMULU, J

Date: 12.2.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2400 of 2007

12.2.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.2400 of 2007

Date: 12th February, 2006

Between:

M/s MARC Manufacturers Pvt. Ltd.,
Balanagar, Hyderabad, rep. by its Director.

.. Petitioner

And

The Additional Industrial Tribunal-cum-

Addl. Labour Court, M.J. Road, Hyderabad,
rep. by its Presiding Officer & others.

.. Respondents

[\[1\]](#) AIR 1975 SC 1900